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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,880	02/11/2004	Kevin A. Rickman	A310443.1US	3377

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EXAMINER	
PHILLIPS, CHARLES E	

ART UNIT	PAPER NUMBER
3751	

DATE MAILED: 01/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/776,880	RICKMAN, KEVIN A.	
	Examiner	Art Unit	
	Charles E. Phillips	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 November 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-42* is/are pending in the application.

4a) Of the above claim(s) *1-8,14 and 18-30* is/are withdrawn from consideration.

5)☒ Claim(s) *31-42* is/are allowed.

6)☒ Claim(s) *9-13 and 15-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

At the outset there is no confusion about the elected embodiment in that the examiner's reference to Fig. 3 is the same as Fig. 1 in that the former is merely an exploded view of the latter. Claims 1-8 and 14 are objected to as set forth on page 3, paragraph 5 of the 8/26/05 paper. Re: claim 14, the only conduit disclosed in Fig. 3 is 68 and no weight is present therein.

Claim 1 was treated on art in the previous action as a matter courtesy but will no longer be addressed as failing to read on the elected embodiment of Figs. 1-3.

The examiner will accept the explanation on page 17 of the remarks that the "Drain cover 32 is the debris filter;" however, it is required that this be clearly set forth in the specification.

With this in mind, claim 1calls for the aperture and at least a portion of said pool cover to be "disposed between said debris filter and said basin." Viewing Fig. 3 with reference to lines 5-9 of the disclosure, it is disclosed that the debris filter OD is slightly less than or equal to the ID of the pool cover aperture 30, thus making it impossible for "at lease a portion of said pool cover" to be "disposed between said debris filter and said basin." Accordingly, claims 1-8 do not read on Figs 1-3.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9-11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Loft, Jr.

The newly added "basin" is met by the elbow 16. As the dependent claims are not separately argued for they are included here without further comment.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loft, as set forth in the 8/26/05 paper.

Claims 9,13,15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Day, as set forth in the 8/26/05 paper.

Applicant adds the term "flexible" to claim 9 and argues that the Day cover is not "flexible." As steel beams possess some degree of flexibility, the Day cover would possess same. It is noted that the term, "flexible," is not found in the instant disclosure; however, one of the materials disclosed on page 6 is "non-corrosive metal," which is presumed to posses this newly claimed flexibility. Since the plate 16 of Day and his cover 12 are shown in Fig. 2 in the same plane, the plate inherently resides in the aperture of the cover.

The arguments on page 14, first full paragraph, are not well taken in that claim 9 calls for none of the structure of lines 8-10 of this paragraph.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loft, as applied supra, in view of Gurrieri, where as set forth in the 8/26/05 paper a weight 28 is taught.

To provide for the elbow 16 to weigh 5 pounds or to contain such a weight would have been obvious to the ordinary artisan for the reasons advanced previously.

Claims 1-8, 14 and 18-30 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/27/05.

The drawins are objected to as set forth in the 8/26/05 paper.

Notwithstanding the arguments on page 18, "disposed beyond" is not shown and for that matter not disclosed either.

Claims 31-42 are allowed.

Any inquiry concerning this communication should be directed to Charles E. Phillips at telephone number 571-272-4893.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Charles E. Phillips
Primary Examiner